



WASHOE COUNTY

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STAFF REPORT BOARD MEETING DATE: February 24, 2015

DATE: January 29, 2015

TO: Board of County Commissioners

FROM: Bob Webb, Planning Manager, Planning and Development Division
Community Services Department, 328-3623, bwebb@washoecounty.us

THROUGH: William H. Whitney, Division Director, Planning and Development
Community Services Department, 328-3617, bwhitney@washoecounty.us

THROUGH: Nancy Parent, Washoe County Clerk, 784-7260,
nparent@washoecounty.us

SUBJECT: Request by the Community Services Department through the Washoe County Clerk pursuant to WCC 2.030 for the Board of County Commissioners to initiate proceedings to amend Washoe County Code Chapter 25 (Business License Ordinance) to remove bond requirements for traveling merchants, peddlers, and solicitors; to exempt certain government agencies from obtaining a Washoe County business license for their administrative functions; to consolidate all fees into the master business license fee schedule; to consolidate all definitions into a single code section; to incorporate NRS provisions as appropriate; to enable administrative and civil enforcement of business license regulations; to incorporate certain State of Nevada licensing and permitting requirements; to modify work card, registration card, and criminal history inquiry regulations in concert with the Washoe County Sheriff's Office; to clarify and consolidate regulations for outdoor events; to divide the current medical marijuana establishment regulations into various sections to make the code easier to understand; to incorporate policy direction provided by the Washoe County Board of County Commissioners at initiation on February 24, 2015; to amend Washoe County Code Chapter 110 (Development Code) to clarify which temporary events require a business license and to remove duplicate regulations pertinent to outdoor entertainment events; and, to provide for other matters properly related thereto; and, to direct the County Clerk to submit the request to the District Attorney for preparation of a proposed ordinance, pursuant to Washoe County Code Sections 2.030 and 2.040.
(All Commission Districts.)

AGENDA ITEM # 6K4

SUMMARY

Initiate proceedings to amend Washoe County Code Chapter 25 (Business License Ordinance) and Chapter 110 (Development Code) for a variety of matters which have accumulated over the past few years, principally to incorporate required NRS provisions into County Code. Direction from the Board of County Commissioners (Board) on three policy matters which may or may not be included with the proposed code amendments.

Washoe County Strategic Objective supported by this item: Economic development and diversification.

PREVIOUS BOARD ACTION

The Board last amended WCC Chapter 25 on April 8, 2014 to include regulations specific to medical marijuana establishments.

BACKGROUND

The Planning and Development Division of the Washoe County Community Services Department is responsible for all business license services within the unincorporated County. As such, the Division maintains oversight on Washoe County Code (WCC) Chapter 25, Business License Ordinance. The Division also is responsible for all liquor and gaming license services, and the associated oversight of WCC Chapter 30, Liquor and Gaming License Ordinance.

As part of the Division's oversight of both WCC Chapters, staff regularly reviews the code chapters for required updates due to State Law changes, to direction from the Board, and to changes in response to customers and staff using the regulations. The Division completed a comprehensive review and associated amendments to WCC Chapter 30 in April of 2013. After WCC Chapter 30 was updated, staff began work on a similar review and update for WCC Chapter 25.

Attachment A contains a list of proposed changes to WCC Chapter 25 and Chapter 110, based on staff's review of NRS, Board questions or direction, and of customer and staff input from using the business license regulations. Chief among the proposed changes are those resulting from current NRS regulations which have not been codified within Chapter 25. These NRS regulations include several sections addressing scrap metal dealers addressed by Commissioners Jung and Hartung at the Board meeting in late October of 2014.

The other proposed changes are the result of customer and staff input on WCC Chapter 25. Chief among these proposed changes is to consolidate all license fees from WCC Chapter 25 into a single fee schedule, which will be adopted by resolution of the Board. The current *Master Business License Fee Schedule* was adopted by Board resolution on February 24, 2004 and only includes business license renewal fees. All other license fees, such as the application and first year license fee and fees for specific business types (e.g., animal shows, Christmas tree sales, outdoor events, etc.) remain within WCC Chapter 25 in various sections. Consolidating all of the license fees into a single fee

schedule will make it easier for customers and staff to determine the correct fee for a license. The 2013 amendments to WCC Chapter 30 allowed a similar consolidation of liquor license fees into the single *Master Liquor License Fee Schedule*.

Staff will be present at the February 24, 2015 Board meeting to discuss any of the other proposed WCC Chapter 25 and Chapter 110 changes (Attachment A). There are three areas that are not reflected in Attachment A on which staff seeks BOARD policy direction.

POLICY DIRECTION

The following three areas have been topics of discussion by individual Commissioners in the past and warrant policy direction from the Board on whether these areas should be included within the proposed WCC Chapter 25 amendments. The discussion on each area includes staff recommendations on any potential code amendments. Staff also recommends that individual Commissioners discuss any policy matters not among these three if appropriate.

1. *Should WCC Chapter 25 be amended to require a Washoe County business license for properties which are rented as transient lodging?*

The District Attorney's (DA) Office processed WCC Chapter 25 code changes in April of 2014 specific to transient lodging taxes for hotels, motels, and other similar establishments. The code changes removed the phrase "3 or more units" from the definition of transient lodging. As currently written, any establishment offering rental rooms for less than 28 consecutive days must pay the transient lodging tax (collected by the Reno-Sparks Convention and Visitors Authority and the Incline Village Crystal Bay Visitors Bureau).

Current WCC Chapter 25 regulations require a business license only when renting "three or more residential units on one parcel of land." The changes to the transient lodging section of WCC Chapter 25 have created a conflict with the general licensing requirements within the chapter. For example, a "vacation rental" is required to register with the appropriate Visitor's Authority/Bureau and pay transient lodging taxes, but is not required to obtain a County business license.

Should the general licensing requirements be changed to match the transient lodging definition, such that a person paying transient lodging tax must also possess a Washoe County business license? Conversely, should the Code remain unchanged?

Staff recommends that WCC Chapter 25 remain unchanged on this matter. Requiring a business license will not resolve any of the issues revolving around transient lodging such as vacation rentals. Those issues are the result of activities at the vacation rental property, and are not directly connected to requiring the property owner to obtain a business license. Additionally, requiring a business license for these types of transient lodge properties will subject the property owner to agency review and approvals for commercial establishments, since transient lodging is

regulated as such in fire, health and building codes. This additional burden of complying with commercial code requirements for a transient lodging property will not resolve the issues associated with vacation rentals, but will increase the financial costs of licensure for the property owner.

2. *Should WCC Chapter 25 be amended to waive business license fees for “not for profit” businesses and other charities?*

Currently, all businesses operating in the unincorporated County are required to obtain a business license and pay appropriate business license fees, to include “not for profit” businesses and charities. The DA’s Office recently opined that the County cannot require a business license (and fees) for religious institutions solely providing religious services, instruction, or other related religious activities. The proposed code changes will include this restriction.

However, the broader question of business license fees for “not for profit” businesses and for charities has been raised in the past on several occasions but the code remains unchanged. The Cities of Reno and Sparks currently address “not for profit” businesses and charities as follows:

- *City of Reno.* A City business license is not required for “Activities conducted by, or for the exclusive benefit of, organizations that are certified as tax exempt entities pursuant to 26 U.S.C. Section 501(c), including but not limited to organizations operated for religious, charitable, scientific, literary, educational, or fraternal purposes.”
- *City of Sparks.* A City business license is not required for “Activities conducted by, or for the exclusive benefit of, organizations that are certified as tax-exempt entities pursuant to 26 U.S.C. § 501(c)(3), including but not limited to organizations operated for religious, charitable, scientific, literary, educational or fraternal purposes. To obtain exemption pursuant to this section, a tax-exempt entity must provide a current copy of its letter of determination from the Internal Revenue Service. The exemption from the requirement to obtain a business license does not relieve a tax-exempt entity from the obligation to obtain a tax-exempt activity license or payment of any applicable fee for fire, building or hazardous materials inspections by a department of the city.”

The City of Sparks does require such exempt entities to obtain a “tax exempt activity license.” The City does not charge a fee for this license. However, as part of that license application and renewal process, the applicant must undergo fire, building and hazardous material inspections and pay any associated inspection fees.

Should business license fees be waived for “not for profit” businesses and for charities? Staff recommends that such businesses and charities be required to obtain a business license, but that the code is changed such that any license fees are waived. With this recommendation, these businesses and charities will be inspected as part of

the regular business license application process for public health and safety matters by appropriate public agencies to ensure that the facilities are safe for employees and the public. These businesses and charities should pay for any such initial inspections, and for annual inspections if required by the public agency (i.e., for fire inspections).

Staff further recommends that “not for profit” businesses and charities be required to pay any license application fees (e.g., the application fee for an outdoor festival). Application fees reimburse the County general fund for staff time and resources spent processing license applications. Currently, there is no separate application fee for a “general” business license, but large outdoor events do have an application fee. These outdoor events also pay a separate daily license fee. If the Board follows staff’s recommendation, a “not for profit” business or charity would pay the application fee but not the daily license fee.

- As an example, the application fee for an outdoor festival (1,000 or more people attending the event on any one day of the event) is \$1,000. The license fee is \$350 per day for each day of the event. With this recommendation, a “not for profit” business or a charity would only pay the \$1,000 application fee.

Finally, staff recommends following the definitions and requirements used by the City of Sparks for classifying “not for profit” businesses and charities, specifically for providing proof of a tax-exempt status at the time of business license application.

3. *Should WCC Chapter 25 be amended to exempt GIDs from special event regulations on lands owned or managed by the GID?*

Special events license regulations include temporary events such as outdoor community events (less than 1,000 people on a single day of the event) and outdoor festivals (more than 1,000 people on a single day of the event). These outdoor events are required to obtain a Washoe County business license, subject to review and approval by the Planning and Development Division Director, the Washoe County Board of Adjustment, or the Board, depending on the size of the event. Such events are conditioned for their operations by multiple public agencies.

Events held outdoors on lands managed by the Washoe County Regional Parks and Open Space (Parks), and not within a facility designed to hold such events, are exempt from obtaining a special events license¹. This means that such outdoor events as the annual Balloon Races do not obtain a special events license from business license staff. However, the event does obtain other permits from Parks, other agencies (e.g., Fire and Health), and outside vendors must obtain temporary County business licenses.

The Sun Valley General Improvement District (SVGID) manages several recreational facilities in Sun Valley, such as the Sun Valley Neighborhood Center. The SVGID

¹ The County’s special event regulations only apply to lands in the unincorporated County. Additionally, events held on state, trust, tribal, or federal lands are exempt from the special event regulations.

General Manager inquired as to whether they would be exempt from the special event regulations; however, the current Code does not exempt SVGID from obtaining a special event license for events on SVIGD owned or managed property. The Incline Village General Improvement District (IVGID) also owns and manages several outdoor recreation areas. While IVGID staff has not inquired about exemption from the special event regulations, there are several outdoor events held on IVGID managed property which currently obtain special event licenses (e.g., Red, White and Tahoe Blue and the Lake Tahoe Summerfest).

Should GIDs be exempt from special event regulations on lands owned or managed by the GID? Staff recommends that GIDs, specifically SVGID and IVGID, be exempt from such regulations. Changing the code would extend the same considerations for recreational lands currently provided for County Parks to the GIDs. However, such events should still be required to obtain any required approvals or permits from other public agencies, and any outside vendors should obtain appropriate County temporary licenses.

FISCAL IMPACT

If directed to amend County Code within WCC Chapter 25, staff will prepare a resolution for the Board of County Commissioners to amend the current *Master Business License Fee Schedule* to incorporate all fees currently codified within WCC Chapter 25. The proposed code amendment will allow the Board of County Commissioners to set all fees by resolution rather than by the current method of adopting such fees by ordinance. At this time, staff is not proposing any increases to current business license fees.

RECOMMENDATION

It is recommended that the Board of County Commissioners approve the request by the Community Services Department to initiate proceedings to amend Washoe County Code Chapter 25 (Business License Ordinance) and Chapter 110 (Development Code) based on the staff report and Commission direction provided at the February 24, 2015 meeting and direct the County Clerk to submit the request to the District Attorney for preparation of a proposed ordinance, pursuant to Washoe County Code Sections 2.030 and 2.040.

POSSIBLE MOTION

Should the Board agree with staff's recommendation, a possible motion would be:

“Move to initiate proceedings to amend Washoe County Code Chapter 25 (Business License Ordinance) and Chapter 110 (Development Code) based on the staff report and Commission direction provided at the February 24, 2015 meeting and direct the County Clerk to submit the request to the District Attorney for preparation of a proposed ordinance, pursuant to Washoe County Code Sections 2.030 and 2.040.”

Attachment: A. WCC Chapter 25 and Chapter 110 Proposed Code Change Synopsis
B. Initiation letter to Washoe County Clerk

Business License Code
(WCC Chapter 25)
Proposed Code Change Synopsis

The following is a synopsis of the changes proposed for the Washoe County Business License Code (WCC Chapter 25).

1. Include the various NRS regulations concerning the following:
 - a. Charitable solicitations while standing on a roadway.
 - b. Scrap metal, junk, hides and secondhand material processing and requirements for dealers and businesses. This includes the requirements for a scrap metal dealer obtaining a photograph and fingerprint impression as noted by Commissioners Jung and Hartung in late October of 2014 (involves copper theft).
 - c. Pawnbrokers holding a motor vehicle as collateral.
 - d. Door to door salespersons requirements for receipts and notice of cancellation.
 - e. Restrictions and conditions on charitable organization solicitations.
 - f. Restrictions on the licensure of sellers of tangible personal property.
 - g. Clarification on the requirements for individuals to obtain a County massage business license, and those exempt from such licensure.
 - h. Requirements and restrictions established for pawnbrokers and their businesses.
 - i. Requirements and restrictions established for door to door solicitors, traveling merchants, and peddlers.
 - j. Restrictions on including certain revenue from electric energy and telecommunications providers.
2. Consolidate all business license fees in to the *Master Business License Fee Schedule* adopted by the Board by resolution. Currently, only the annual renewal fees are contained in the schedule. Other fees remain in code, such as the application/first year fee, fees for specific business types, and penalties (e.g., for late renewal). All fees and penalties should appear in the schedule for ease of reference and use by our customers. Code changes will delete the fees and reference the schedule.
3. Consolidate all definitions into a single section. Currently definitions are scattered throughout the code in different sections specific to license processes or different license types. Placing all definitions into one area will make the code easier to use for reference.
4. Enable administrative and civil enforcement of business license regulations. Currently, staff is limited to following the criminal process for business license code violations. The proposed changes would enable staff to follow the administrative and civil enforcement processes established in the County's Administrative Enforcement Code (WCC Chapter 125).
5. Establish that a County business license is not required for a professional as defined in Code and NRS, or a real estate agent working for a licensed real estate broker. Define that a community theater and a person selling agricultural products with a valid Nevada

agricultural certificate are required to have a business license but not to pay any license fees (NRS requirement).

6. Include Nevada Secretary of State business license registration requirements, child support requirements, and requirements to hold other Nevada permits or licenses.
7. Exempt the activities of any federal or Nevada based governmental or quasi-governmental entity acting in its government capacity from obtaining a Washoe County business license. Currently, government agencies are not exempt from obtaining a Washoe County business license. This means that a general improvement district (GID) is required to obtain a business license for its administrative offices and functions. Adding this exemption to County Code would exempt the GID from business license requirements for its administrative and other similar offices.
8. Include changes made in concert with the Washoe County Sheriff's Office concerning work cards, registration cards, and criminal history inquiries.
9. Incorporate other legal avenues when a license is transferred to another person, such as through bankruptcy or if the licensee is deceased.
10. Add provisions to enable a licensee to modify their business license for matters such as amending their business activities.
11. Specify which business license types are annual and may be renewed, and those which are issued for a single event or a specific time period.
12. Specify that the Board's adopted rules and procedures will govern when matters to be heard by the Board are scheduled for hearings.
13. Remove the provision requiring a traveling merchant, a peddler, and/or a solicitor to post a \$1,000 bond. There are no code provisions stipulating the type of financial instrument acceptable for such a bond and, more importantly, there are no regulations outlining how a customer can file a claim against a traveling merchant, a peddler, and/or a solicitor for some or the entire bond. Additionally, there are no regulations which provide a method for the County to pay such a claim. For these reasons, business license staff has not collected the bond and recommends the bond requirement be removed from Code.
14. Clarify and consolidate the requirements for outdoor event licensure. There are three types of outdoor event licensure, based on the size of the event on any one day of the event. Establish that the smaller events (less than 100 people) may be approved by business license staff, with license review and approval requirements set forth in code. Establish that medium sized events (100 to 999) may be approved by the Director of the Planning and Development Division, following noticing, license review and approval requirements set forth in code. Finally, retain review and approval of the larger events (1,000 or more) with the Board. The code changes will also remove duplicate and contradictory regulations contained in the Development Code (WCC Chapter 110).
15. Clarify the development standards for home-based businesses to allow the imposition of operating conditions on the license, to state that outdoor storage restrictions do not apply to allowed business vehicles and trailers, to require a parking space for a business vehicle and parking spaces for student receiving instruction at the business, to require that business trailers be registered, and to allow business license staff to conduct annual inspections.

16. Modify the medical marijuana regulations to separate the regulations into separate sections for ease of use and reading, and to incorporate matters discovered during the initial application process. These matters include a setting a time frame for registration cards, refining the distance measurements for schools and community facilities to match NRS, authorizing the use of a consent form so business license staff can release information associated with an application to the public, establishing that only dispensaries and laboratories are subject to pharmacy and medical office design standards, and expanding the requirements to submit plans for waste disposal.
17. Make other administrative changes to make the code easier to read and use. Examples include deleting repetitive number notations, correcting code references, spelling out acronyms, correct references to other agencies and departments, removing references to dates of effective ordinance changes which are in the past and no longer applicable (e.g., references to January 2003), etc.

Development Code
(WCC Chapter 1110)
Proposed Code Change Synopsis

The following is a synopsis of the changes proposed for the Washoe County Development Code (WCC Chapter 110). All the proposed changes are within Article 310, *Temporary Uses and Structures*.

- A. Reflect the current organization structure of the Planning and Development Division, Community Services Department.
- B. Segregate the temporary uses outlined in WCC Section 110.310.15, *Allowed Temporary Uses and Structures*, into those uses requiring a business license pursuant to WCC Chapter 25, and those which do not require a business license.
- C. Clarify that temporary on-site rental storage containers require an established residential dwelling unit on the property, or possession of a valid residential dwelling unit building permit for the property. Further clarify that the 60 day allowable time frame for such temporary containers is within any calendar year.
- D. Clarify within Section 110.310.20, *Circuses, Carnivals or Other Outdoor Entertainment Events*, that these uses are allowed after obtaining a business license pursuant to WCC Chapter 25, and the time frame for such events will be stipulated in the business license. Remove provisions which will be included in the amended WCC Chapter 25 specific to the definitions for outdoor entertainment events. Stipulate that a WCC Chapter 25 business license is required for events held on ancillary support facilities.
- E. Make other administrative changes to make the code easier to read and use (see number 17 above).



Washoe County
COMMUNITY SERVICES DEPARTMENT
Planning and Development Division

February 24, 2015

Nancy Parent
Washoe County Clerk
P.O. Box 11130
Reno, NV 89520

RE: Request to initiate proceedings to amend Washoe County Code Chapter 25 (Business License Ordinance) to remove bond requirements for traveling merchants, peddlers, and solicitors; to exempt certain government agencies from obtaining a Washoe County business license for their administrative functions; to consolidate all fees into the master business license fee schedule; to consolidate all definitions into a single code section; to incorporate NRS provisions as appropriate; to enable administrative and civil enforcement of business license regulations; to incorporate certain State of Nevada licensing and permitting requirements; to modify work card, registration card, and criminal history inquiry regulations in concert with the Washoe County Sheriff's Office; to clarify and consolidate regulations for outdoor events; to divide the current medical marijuana establishment regulations into various sections to make the code easier to understand; to incorporate policy direction provided by the Board of County Commissioners at initiation on February 24, 2015; and, to provide for other matters properly related thereto.

Dear Ms. Parent,

In accordance with WCC 2.030, I request that you initiate proceedings to amend Washoe County (Code Chapter 25 – Business License Ordinance) as outlined in the subject line of this letter. The amendments will incorporate appropriate provisions from NRS into the Business License Ordinance, and will update the Ordinance based on staff review and discussions over the past year.

Attached is a proposed staff report requesting that the Board of County Commissioners approve the proposed change and instruct you to direct the District Attorney to prepare appropriate code amendments.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Solaro".

Dave Solaro, Arch., P.E., Director
Community Services Department

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